

## Message Text

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ACTION SS-25

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S E C R E T MOSCOW 2781

EXDIS

E.O. 11652: XGDS-3

TAGS: PARM, US, UR

SUBJECT: TTBT/PNE NEGOTIATIONS: MEETING WORKING GROUP I ON "LEGAL  
ARTICLES" - TTBT/PNE DELEGATION MESSAGE NO. 79

1. LONG MEETINGS WITH LAPTEV AND TIMERBAEV FEB 23 PRODUCED  
FOLLOWING.

2. AGREEMENT REACHED AD REFERENDUM ON TEXT US PROTOCOL  
ARTICLE XII PARAS 1 AND 3 AS REPORTED SEPTEL.

3. CONCERNIN ARTICLE XXI PARA 2 (D) ON INVIOABILITY,  
LAPTEV NOW PROPOSES NEW TEXT AS FOLLOWS:

BEGIN TEXT.

D) INVIOABILITY OF THEIR ARCHIEVES AND DOCUMENTS AT  
ALL TIMES AND WHEREVER THEY MAY BE;

E) THE PARTY CARRYING OUT THE EXPLOSION SHALL, IN  
ACCORDANCE WITH SUCH LAWS AND REGULATIONS AS IT MAY ADOPT,  
PERMIT ENTRY OF AND GRANT EXEMPTION FROM ALL CUTOMS  
DUTIES, TAXES AND RELATED CHARGES OTHER THAN CHARGES FOR  
STORAGE, CARTAGE AND SIMILAR SERVICES, ON ARTICLES FOR  
THE OFFICIAL OR PERSONAL USE OF DESIGNATED PERSONNEL.  
THE PERSONAL BAAAGE OF DESIGNATED PERSONNEL SHALL BE  
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EXEMPT FROM INSPECTION, UNLESS THERE ARE SERIOUS GROUNDS

FOR PRESUMING THAT IT CONTAINS ARTICLES NOT COVERED BY THE EXEMPTIONS MENTIONED IN THIS SUBPARAGRAPH OR ARTICLE THE IMPORT OR EXPORT OF WHICH IS PROHIBITED BY THE LAW OR CONTROLLED BY THE QUARANTINE REGULATIONS OF THE PARTY CARRYING OUT THE EXPLOSION. SUCH INSPECTION SHALL BE CONDUCTED ONLY IN THE PRESENCE OF DESIGNATED PERSONNEL OR THEIR AUTHORIZED REPRESENTATIVE.

END TEXT.

(NOTE: SUBPARAS (E) AND FOLLOWING WOULD BE RENUMBERED UNDER THIS PROPOSAL).

4. ACCORDING TO LAPTEV, ARTICLE XII PARA 2 SHOULD NOT CONTAIN REFERENCE TO INVILABILITY OF EQUIPMENT. AFTER LENGTHY CIRCULAR DISCUSSION, BUCHHEIM ASKED TIMERBAEV TO STATE PRECISELY WHAT HE, TIMERBAEV, UNDERSTOOD LAPTEV TO BE SAYING IN ORDER TO INSURE FAITHFUL REPORTING OF HIS ARGUMENT. TIMERBAEV DICTATED FOLLOWING AND CHECKED WRITTEN RECORD FOR CORRECTNESS:

BEGIN TEXT.

SOVIET LAWYERS BELIEVE THAT NEW AGREEMENT SHOULD NOT ESTABLISH "NEW NORM" OF INTERNATIONAL LAW CONCERNING THE INVIOABILITY OF EQUIPMENT. THEY STRONGLY BELIEVE THAT THE AGREEMENT SHOULD, RATHER, ONLY SPECIFY IN DETAIL RULES AND REGULATIONS GOVERNING THE USE OF EQUIPMENT BY DESIGNATED PERSONNEL IN CORRESPONDING ARTICLES OF THE PROTOCOL OR PROCEDURES.

END TEXT.

5. NO AGREEMENT REACHED ON INCLUDING OR DELETING (Y) PROFESSIONAL AND (YY) FROM US ARTICLE II PARA 2. LAPTEV INSISTS THAT "PROFESSIONAL" AND "COMMERCIAL" REFER TO ENTIRELY DIFFERENT THINGS, BUT HE WILL NOT (OR IS UNABLE TO) MAKE ANY STATEMENT ABOUT NATURE OF DIFFERENCE. NO MATTER HOW PERSISTENT THE QUESTIONING, HIS ONLY RESPONSE IS THAT MANY LAWYERS WORKED ON THE LANGUAGE AND THEY UNDERSTAND  
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EXACTLY WHAT IT MEANS. WHEN ASKED TO SAY WHAT THIS CLEAR MEANING IS, HIS ONLY RESPONSE IS THAT THE HOLY TEXT SAYS "PROFESSIONAL AND COMMERCIAL ACTIVITIES," AND THAT IS WHAT IT MEANS.

6. LAPTEV REFUSES TO ACCEPT LANGUAGE CONCERNING OPERATION OF VEHICLE. STORY NOW, IN CONTRAST TO EARLIER VERSIONS, IS THAT DESIGNATED PERSONNEL COULD BE HELD LIABLE

IN EVENT OF ACCIDENT INVOLVING VEHICLE "USED" BUT NOT OPERATED BY DESIGNATED PERSONNEL. EXAMPLES CITED AS POSSIBLE CASES WERE "USE" BY DESIGNATED PERSONNEL OF AN EMBASSY CAR OR RENTED CAR IN SENSE OF SITTING IN BACK SEAT AS PASSENGER.

7. DELEGATION RECOMMENDS THAT SERIOUS CONSIDERATION BE GIVEN TO ARRANGING AN INTENSIVE LAWYER-TO-LAWYER SESSION ON REMAINING DIFFERENCES IN ARTICLE XII PARA 2, I.E.,

(A) (Y) PROFESSIONAL ACTIVITIES (YY)M

(B) (X) OPERATED BY DESIGNATED PERSONNEL (XX).

(C) INVIOABILITY OF PERSONAL BAGGAGE AND EQUIPMENT.

8. DELEGATION HAS NOT BEEN ABLE TO ENGAGE LAPTEV IN GIVE-AND-TAKE DIALOGUE. HE INSISTS ON HIS POSITION, BUT REFUSES TO OFFER ARGUMENTS TO SUPPORT THIS, ASSRTING ONLY THAT REASONS WELL-KNOWN. DELEGATION DOES NOT BELIEVE IT MAKES SENSE TO CONTINUE EFFORT WITH LAPTEV, PARTICULARLY SINCE TIMERBAEV IS NOT SUPPORTING SENSIBLE DISCUSSION. LAPTEV SHOULD BE EXPOSED TO US LAWYER, PROBABLY PREFERABLE IN WASHINGTON SINCE ISSUES ARE DISCRETE FROM REST OF MORASS HERE.

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